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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,900	09/19/2001	Makoto Inoue	01309.00015	2911

7590 10/03/2003  
Frank D Wolffe  
Banner & Witcoff  
Eleventh Floor  
1001 G Street NW  
Washington, DC 20001-4597

EXAMINER
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CHOP, ANDREA MARIE

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/936,900

Applicant(s)

INOUE ET AL.

Examiner

Andrea Chop

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/19/01 IDS and Preliminary Amendment.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) n/a. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Notice of Art Unit Number Change***

1. Please note that the Art Unit number associated with this Application has changed to 3677.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. § 365, which papers have been placed of record in the file.

### ***Drawings***

4. It should be noted that the drawings have not yet been reviewed by a PTO draftsman. The drawings will be reviewed upon allowance of the application and Applicant will be apprised of their status accordingly.

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*Claim Rejections - 35 USC § 112*

5. Claims 1-31 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns the claims, the claims have many problems too numerous to mention specifically; the following point out a *few* examples of such problems. The claims should be carefully reviewed and corrected to comply with 35 U.S.C. § 112, second paragraph.

Claim 1, it is not clear whether it is Applicant's intention to positively recite the customer-side equipment; this equipment is defined in an intended use statement, however Claim 1 goes on to positively recite this structure further on in the claim.

Claim 2, "the product number" and "the ... category" lacks antecedent basis.

...

Claim 19, "merchandise items established in the computer system" lacks antecedent basis.

,etc.

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***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-31 show a series of steps which are grounded in the abstract idea of, for example, a customer specifying means, route specifying means, information specifying means, etc. The broadly recited steps do not recite sufficient computer structure that are within "technological arts". Therefore, they do not satisfy the statutory requirements of 35 U.S.C. 101. See *In re Toma* 197 USPQ 852 (CCPA 1978).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Chelliah et al. US 5,710,887.

As best understood in light of the 112 rejection above, Chelliah et al. teaches a distribution system as claimed; a distribution system which links purchasers with suppliers and processes merchandise.

***Patent Customers Advised to FAX Communications to the USPTO***

10. In view of delays in mail delivery in recent days, we at the USPTO would like to encourage you to communicate with the USPTO via facsimile. **Facsimile transmissions may be used for correspondence as set forth in 37 CFR 1.6 such as: amendments, petitions for extension of time, authorization to charge a deposit account, an IDS, terminal disclaimers, a notice of appeal, an appeal brief, CPAs under 37 CFR 1.53(d), and RCEs.**

PTO Form 2038 should be used when authorizing payment by credit card; this form is maintained separate from the file to ensure confidentiality.

The USPTO has recently installed server software that enables us to automatically receive facsimile transmissions and route them to the appropriate groups. No special equipment is needed by our customers to use this system other than a regular facsimile machine. Each Technology Center has its own facsimile numbers associated with our server for Official replies to non-final Office actions and for Official replies to final Office actions. In addition, each

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Technology Center has a Customer Service Center on our server system and can answer any general application status questions you might have, can provide Examiner information and answer paper queries. The following is a list of all Official Facsimile numbers for Technology Center 3600:

TC 3600:

Before Final 703-872-9326

After Final 703-872-9327

Customer Service 703-872-9325

By using the Official Before Final and After Final numbers, our server system will automatically generate a return receipt that will include the number of pages received as well as the date and time the facsimile was received. Additionally, the return receipt will include an image of the received cover page. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (see 37 CFR 1.6 and 1.8). Applicants are also advised to retain the return receipt in the event that the Office has no record of the facsimile submission, whether the facsimile submission is a reply to an Office action (37 CFR 1.8(b)), or a continued prosecution application under 37 CFR 1.53(d) (37 CFR 1.6(f)).

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**Note, however, the Office currently does not permit new application filings (other than a CPA under 37 CFR 1.53(d)), requests for reexamination, drawings, and certain correspondence set forth in 37 CFR 1.6(d) by facsimile.**

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

reference	why cited?
US 6,141,653	teaches an overall system of linking buyers with sellers
US 6,009,413	teaches a system which enables a buyer to purchase from different supplies
US 6,587,827	teaches a system which processes orders of a customer with suppliers
US 2002/0038258	teaches a the details of a system which links buyers with specific suppliers
US 2002/0059122	teaches a system with details of linking a buyer with sellers
US 2003/0078796	teaches a system linking buyers with sellers using identification numbers



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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea Chop whose telephone number is (703) 305-6358.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

*Andrea Chop*  
ANDREA CHOP  
PATENT EXAMINER  
*Art Unit 3677*

AMC  
September 25, 2003